

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARVIN CABBAGESTALK,

Plaintiff,

**9:15-cv-167
(GLS/CFH)**

v.

MR. HUDSON et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Marvin Cabbagestalk
Pro Se
DU-6337
SCI BRENNER TOWNSHIP
301 Institution Drive
Bellefonte, PA 16823

FOR THE DEFENDANT:

HON. RICHARD S. HARTUNIAN
United States Attorney
P.O. Box 7198
100 South Clinton Street
Syracuse, NY 13261-7198

CHARLES E. ROBERTS
Assistant United States Attorney

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-
Recommendation and Order by Magistrate Judge Christian F. Hummel,

duly filed on August 29, 2016. (Dkt. No. 35.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report-Recommendation and Order for clear error, it is hereby

ORDERED that the Report-Recommendation and Order (Dkt. No. 35) is **ADOPTED** in its entirety; and it is further

ORDERED that defendant Mr. Hudson's motion to dismiss (Dkt. No. 25) is **GRANTED IN PART** and **DENIED IN PART** as follows:

GRANTED as to plaintiff's claims concerning the calculation of his sentence; and

DENIED in all other respects; and it is further

ORDERED that the remaining claims are **DISMISSED** pursuant to Fed. R. Civ. P. 41(b) and N.D.N.Y. L.R. 41.2(a) for failure to prosecute; and it is further

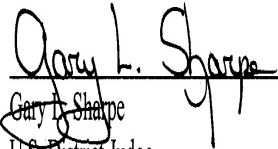
ORDERED that the complaint (Dkt. No. 7) is **DISMISSED** in its entirety; and it is further

ORDERED that the Clerk is directed to close this case; and it is further

ORDERED that the Clerk shall provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 27, 2016
Albany, New York



Gary L. Sharpe
U.S. District Judge